

### **REMARKS/ARGUMENTS**

The Office Action dated October 1, 2009 and the references cited therein have been carefully considered. In response to the Office Action, Applicant has amended Claims 1, 19, 24 and 25, canceled Claim 27 and added new dependent Claims 31-33 which, when considered with the remarks set forth below, are deemed to place the case with Claims 1, 5-7, 10-26 and 28-33 in condition for allowance.

#### ***Claim Rejection – 35 USC §112, First Paragraph***

Claim 27 has been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In response, Applicant has canceled Claim 27. Accordingly, it is believed that the rejection to Claim 27 under 35 U.S.C. §112, first paragraph, has been overcome.

#### ***Claim Rejections – 35 USC §102 and §103***

Further in the Office Action, Claims 1, 5-7, 10-12, 19, 20, 24 and 27-30 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,880,092 to Seeber. Claims 1, 5-7, 10-12, 19, 20, 24, 25 and 27-30 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,735,154 to Hemery. Claims 1, 5-7, 10-12, 19, 20, 24 and 27-30 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,868,080 to Wyler. Claims 1, 5-7, 10-12, 19, 20, 24, 27, 29 and 30 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,955,128 to Apps. Claims 1, 5-7, 10-12, 19, 20, 24, 25 and 27-30 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,622,642 to Ohanesian. Claims 1, 5-7, 10-12, 19, 20, 24 and 27-30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent Publication No. 2003/0110990 to Apps in view of the Wyler patent. Finally, Claims 11, 26 and 28 have been

rejected under 35 U.S.C. § 103(a) as being unpatentable over the Apps patent in view of U.S. Patent No. 6,584,914 to Koefelda.

In response, Applicant has amended independent Claims 1, 19 and 24 to define a pallet including a top deck and a bearing construction that are separately formed and are separable from each other without damaging the pallet. The bearing construction further includes a plurality of cross supports that are integral with the bearing construction and interconnect bearing elements of the bearing construction. It is respectfully submitted that none of the cited references, taken alone or combined, teaches or suggests a top deck and a bearing construction that are separately formed and are separable from each other without damaging the pallet, as set forth in amended independent Claims 1, 19 and 24.

Applicant further respectfully submits that the prior art fails to teach or suggest the structural features set forth in previously presented dependent Claims 25-26 and 29-30.

Applicant still further respectfully submits that the prior art fails to teach or suggest the structural features set forth in new dependent Claims 31-33.

1. The prior art fails to teach or suggest a top deck and a bearing construction that are separately formed and are separable from each other without damaging the pallet, as set forth in amended independent Claims 1, 19 and 24.

Applicant has adopted the Examiner's helpful suggestion and has amended independent Claims 1, 19 and 24 to define a top deck and a bearing construction that are separately formed, wherein the bearing construction includes a plurality of integral cross supports that interconnect bearing elements of the bearing construction. Thus, it is now entirely clear that the cross supports are separately formed from the top deck. Applicant has further amended these claims to define the cross supports as being separable from the top deck without damaging the pallet. It is respectfully submitted that the prior art does not disclose these features.

Turning first to the cited Seeber patent, it is immediately apparent that this reference discloses an integrally made pallet, wherein the bearing construction and top deck are made in one piece. Thus, this reference clearly does not teach or suggest a top deck and a bearing

construction that are separately formed and are separable from each other without damaging the pallet, as defined in amended Claims 1, 19 and 24.

With respect to the cited Hemery patent, here too it is stated that all of the components of the pallet are to be welded together. Moreover, the only elements that can be considered cross supports, as defined in amended Claims 1, 19 and 24, are the integral portions of the top deck opposite the upper surface of the deck. These portions are not separately formed from the top deck, nor are they separable from the top deck without damaging the pallet, as defined in amended Claims 1, 19 and 24.

Turning now to the Wyler patent, the only elements that can be considered cross supports are integral elements of the top deck and are, therefore, not separable from the top deck without damaging the pallet. Therefore, this patent does not disclose cross supports that are separately formed from the top deck and are separable from the top deck without damaging the pallet, as defined in amended Claims 1, 19 and 24.

The Examiner cites the Apps patent as disclosing “cross supports (132)” provided in a bearing construction. However, as clearly shown in Figure 11 of the Apps patent, this element (132) is a single separate platform that merely rests on top of the bearing elements (26) of the bearing construction. Thus, this platform is an entirely separate element, which is not integral to either the bearing construction or the top deck.

It is also important to note that independent Claims 1 and 19 define “at least two cross supports” and Claim 24 defines “a plurality of cross supports interconnecting said bearing elements.” In contrast, the platform (132) disclosed in the Apps patent is a single plate member resting on top of the bearing elements. Therefore, the Apps patent does not disclose a plurality of cross supports interconnecting the bearing elements, as defined in amended Claims 1, 19 and 24.

The Ohanesian patent also discloses a “double-deck” pallet separated by independent bearing elements (310). Again, even assuming that the structural rods (120) can be considered second supporting means, it is clear that these rods are attached to the bottom of the upper deck

(250). Thus, the only elements that can be considered cross supports are the portions on the underside of the upper deck that receive the rods. As such, these portions are not separately formed from the top deck, nor are they separable from the top deck without damaging the pallet.

Finally, as noted by the Examiner, the Apps publication fails to disclose a first supporting means. It is also noted that this publication expressly states that the upper deck (12) and the lower deck (14) are securely attached by welding. (See paragraph [0035] and Claim 1.) As discussed above, the Wyler patent fails to disclose cross supports that are separately formed from the top deck and are separable from the top deck without damaging the pallet. Therefore, even if one skilled in the art were to combine these two references, the result would not be the invention defined in amended Claims 1, 19 and 24.

Accordingly, it is respectfully submitted that amended Claims 1, 19 and 24, and the claims that depend therefrom, patentably distinguish over the prior art.

2. The prior art fails to teach or suggest the structural features set forth in previously presented dependent Claims 25-26 and 29-30.

In response to the prior Office Action, Applicant added new dependent Claims 25-30, which set forth additional structural features not disclosed in the prior art. It is respectfully noted that, in the present Office Action, the Examiner has not specifically addressed the limitations of newly added dependent Claims 25-30. Instead, these dependent claims have been broadly rejected based on the cited prior art without comment. Applicant submits that the prior art fails to teach or suggest the structural features set forth in previously presented dependent Claims 25-26 and 29-30.

a. The prior art does not disclose a pallet comprising a top deck having a plurality of tubular edges extending downwardly from a bottom surface thereof, wherein the tubular edges are separably snap-fit coupled with bearing elements of a bearing construction, as defined in previously presented dependent Claim 25.

Previously presented dependent Claim 25 defines a top deck having a plurality of tubular edges extending downwardly from a bottom surface thereof, wherein the tubular edges are snap-fit coupled with the bearing elements of the bearing construction. Applicant has currently

amended Claim 25 to clarify a separable snap-fit coupling between the tubular edges and the bearing elements.

In the present Office Action, the Examiner has suggested that Applicant provide the structure that makes the top deck and the cross supports separable. Applicant submits that this structure is set forth in previously presented dependent Claim 25 and new dependent Claim 32. Applicant further respectfully submits that the structure set forth in dependent Claim 25 is not shown in the prior art.

b. The prior art does not disclose first supporting means formed with a plurality of openings for enhancing integral molding of the first supporting means with the stringers, as defined in previously presented dependent Claim 26.

Previously presented dependent Claim 26 defines first supporting means formed with a plurality of openings for enhancing integral molding of the first supporting means with the stringers. It is respectfully submitted that none of the cited prior art references, taken alone or combined, discloses first supporting means formed with a plurality of openings, as defined in Claim 26.

Instead, in those references that disclose a first supporting means, these supporting means are in the form of simple flat rods or bars for enhancing the strength and rigidity of the pallet. None of these disclosed bars include openings for enhancing integral molding of the bars within their respective stringer.

c. The prior art does not disclose first supporting means comprising flat portions extending between bearing elements and lips extending upwardly from the flat portions into an interior of the bearing elements, as defined in previously presented dependent Claim 28.

Previously presented dependent Claim 28 defines the first supporting means as having flat portions extending between the bearing elements and lips extending upwardly from the flat portions into an interior of the bearing elements. It is respectfully submitted that none of the cited prior art references, taken alone or combined, discloses first supporting means having lips extending upwardly into an interior of the bearing elements, as defined in Claim 28.

Instead, as described above, in those references that disclose a first supporting means, these supporting means are in the form of simple flat rods or bars without any additional structure. Thus, none of the cited prior art references discloses first supporting means having lips extending upwardly into an interior of the bearing elements, as defined in Claim 28.

d. The prior art does not disclose rows of bearing elements, wherein each row is provided with a pair of second supporting means, wherein the second supporting means are provided on opposite sides of each bearing element, as defined in previously presented dependent Claim 29.

Previously presented Claim 29 defines a pair of second supporting means provided for each row of bearing elements, wherein second supporting means are provided on opposite sides of each bearing element. It is respectfully submitted that none of the cited prior art references, taken alone or combined, discloses the features of dependent Claim 29.

3. The prior art fails to teach or suggest the structural features set forth in new dependent Claims 31-33.

Applicants have also now added new dependent Claims 31-33 setting forth still further structural limitations not found in the prior art. It is respectfully submitted that none of the cited prior art references, taken alone or combined, discloses the additional structural features of new Claims 31-33.

New Claim 31 defines cross supports that are integrally molded with the bearing construction. In this regard, Applicant has adopted the suggestion made by the Examiner to use the phrase “integrally molded” to distinguish the cross supports of the present invention over the separately formed cross supports of the prior art.

New Claim 32 depends from previously presented dependent Claim 25 and further defines the structure that makes the bearing construction and the top deck separable. In particular, new Claim 32 defines a top deck having at least one tubular edge formed with outwardly extending clamping projections, and a bearing element formed with an upper edge defining an opening for receiving the at least one tubular edge. The outwardly extending clamping projections are engaged below the upper edge formed on the bearing element for snap-

Applicant: Hoogland  
Application Serial No.: 10/529,329  
Filing Date: May 23, 2005  
Docket No.: 294-211 PCT/US/RCE

fit coupling the top deck with the bearing construction. The top deck further includes a plurality of openings formed adjacent to the clamping projections, wherein the openings are sized to receive a tool for pushing the clamping projections back for releasing the top deck from the bearing construction. None of the cited prior art references discloses the structure of new dependent Claim 32.

New Claim 33 defines second supporting means that are removable and replaceable without damaging the pallet. None of the cited prior art references teaches or suggests second supporting means that are removable and replaceable without damaging the pallet, as defined in new Claim 33.

### ***Conclusion***

In view of the foregoing amendment and remarks, favorable consideration and allowance of the application with Claims 1, 5-7 and 10-26 and 28-33 are respectfully solicited. If the Examiner believes that a telephone interview would assist in moving the application toward allowance, he is respectfully invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,

/steven t zuschlag/

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Steven T. Zuschlag  
Registration No.: 43,309  
Attorney for Applicant

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(516) 822-3550  
STZ/mf  
330638